

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LA'SHAWN ANDRE GILLISPIE, JR.,

Plaintiff,
v.

Case No. 23-cv-700-pp

MILWAUKEE COUNTY JUSTICE FACILITY,

Defendant.

**ORDER DENYING AS MOOT PLAINTIFF'S MOTION FOR LEAVE TO
PROCEED WITHOUT PREPAYING FILING FEE (DKT. NO. 2) AND
DISMISSING CASE WITHOUT PREJUDICE FOR PLAINTIFF'S FAILURE TO
PAY INITIAL PARTIAL FILING FEE**

At the time the plaintiff filed the complaint, he indicated that he was in custody at the "Milwaukee County Justice Facility, 949 N 9th St Milw, WI 53233." Dkt. No. 1 at 1. That address—949 N. 9th Street in Milwaukee—is the address of the Milwaukee County Jail, which is part of the Milwaukee County Jail & Criminal Justice Facility complex. <https://county.milwaukee.gov/EN/Sheriff/Divisions/Detention-Services>.

On June 6, 2023, the court ordered that if the plaintiff wanted to continue with this lawsuit, then by the end of the day on June 30, 2023, he had to pay \$48.27 as an initial partial filing fee. Dkt. No. 5. The court's order stated that if the plaintiff did not pay the initial partial filing fee, or file a request for more time to pay it, by the end of the day June 30, 2023, the court would dismiss the case and the plaintiff still would owe the \$350 filing fee. Id. The court sent that order to the plaintiff at the Milwaukee County Jail.

On June 26, 2023, the court received a letter from the plaintiff stating that he had over \$48 available in his account, but that “it has not yet been taken.” Dkt. No. 7. He said he did not know what was going on, or “if its just a slight delay,” but he asked if there was “another way to try and get the fee paid.” Id. The return address on the envelope indicated that the plaintiff still was at the Milwaukee County “Jail Facility.” Dkt. No. 7-1.

On July 7, 2023, the court issued an order extending the time for the plaintiff to pay the initial partial filing fee until August 7, 2023. Dkt. No. 8. The court also advised the plaintiff that someone could pay the initial partial filing fee for him by sending the payment in the mail, paying over the phone, paying in person or paying online at pay.gov. Id. at 1-2. The court sent the order to the plaintiff at the Milwaukee County Jail.

The plaintiff has not notified the court that his address changed, but Milwaukee County’s In Custody Locator indicates that the plaintiff no longer is confined at the Milwaukee County Jail.¹ Court staff called the Milwaukee County Jail and learned from the staff that the plaintiff was released from the jail on August 4, 2023; the jail staff were unable to provide a forwarding address for the plaintiff. Wisconsin’s online state court records indicate the plaintiff’s address is 7733 North Mariner Street, Milwaukee, Wisconsin 53224.² The court will update the plaintiff’s address on the docket and mail this order to the plaintiff at that address.

¹ See incustodaysearch.mkesheriff.org (last visited Aug. 15, 2023).

² See wcca.wicourts.gov (last visited Aug. 14, 2023).

The order forwarded to the plaintiff at the Milwaukee County Jail has not been returned to the court as undeliverable and there is no indication that the plaintiff did not receive the order and was not aware of his deadline to pay the initial partial filing fee. Because the court did not receive the initial partial filing fee, or a letter asking for more time to pay it, by the August 7, 2023 deadline, the court will dismiss this case without prejudice for the plaintiff's failure to pay the initial partial filing fee.

The law requires any incarcerated person who files a civil lawsuit to pay the statutory filing fee. 28 U.S.C. §1915(b)(1). The court will collect the \$350 statutory filing fee.

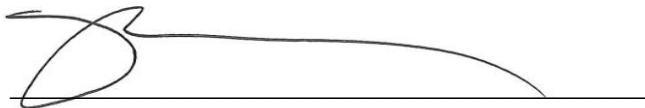
The court **DENIES AS MOOT** the plaintiff's motion for leave to proceed without prepayment of the filing fee. Dkt. No. 2.

The court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE** because the plaintiff did not pay the initial partial filing fee by the deadline the court set. The Clerk of Court will enter judgment accordingly.

The court **ORDERS** that the plaintiff must pay the \$350 filing fee to the clerk of court as he is able.

Dated in Milwaukee, Wisconsin this 16th day of August, 2023.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge